

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK LEONARD BUTZ,

Plaintiff,

Case No. 15-cv-12233

Hon. Matthew F. Leitman

v.

JERRY CLAYTON, et al.,

Defendants.

**ORDER (1) ADOPTING REPORT AND RECOMMENDATION (ECF #24),
(2) GRANTING DEFENDANTS' MOTIONS TO DISMISS (ECF ## 10, 11,
16), AND (3) DENYING WITHOUT PREJUDICE PLAINTIFF'S REQUEST
FOR THE APPOINTMENT OF COUNSEL**

On June 19, 2015, Plaintiff Frank Leonard Butz ("Butz") filed a Complaint against two Defendants: Jerry Clayton ("Clayton"), the Washtenaw County Sherrieff, and Securas Technologies ("Securas"). (*See* ECF #1.) Among other things, Butz alleges that while he was incarcerated at the Washtenaw County Jail, he was denied the ability to place phone calls to his family. (*See id.* at 3, Pg. ID 3.) Butz also claims that when he did attempt to make phone calls, his calls were interrupted by solicitations. (*See id.*) Finally, Butz says that his family was charged "an outrageous amount" for the phone calls he was able to place to them. (*Id.*)

On September 11, 2015, Securas filed a motion to dismiss Butz' Complaint or, in the alternative, for a more definite statement (the "Securas Motion"). (*See* ECF ## 10, 11.) Clayton moved to dismiss Butz' Complaint on September 16, 2015 (the "Clayton Motion"). (*See* ECF #16.) Butz filed a response to both the Securas Motion and Clayton Motion on September 30, 2015. (*See* ECF #18.) In his response, Butz asked the Court to appoint him counsel in this action. (*See id.* at 2, Pg. ID 114.)

On April 25, 2016, the assigned Magistrate Judge issued a report and recommendation (the "R&R") in which he recommended that: (1) the Court grant both the Securas Motion and the Clayton Motion; (2) dismiss the Complaint against both Defendants; and (3) deny Butz' request for the appointment of counsel without prejudice. (*See* ECF #24.)

At the conclusion of the R&R, the Magistrate Judge instructed the parties that they "may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service." (*Id.* at 14, Pg. ID 191.) The parties were also told that the "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (*Id.*)

Butz has not filed any objections to the R&R. As the Magistrate Judge informed the parties, the failure to file an objection to a report and recommendation waives any further right to appeal. *See Howard v. Sec'y of Health*

and Human Servs., 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court has nevertheless reviewed the R&R and agrees with the findings and conclusions of the Magistrate Judge.

Therefore, **IT IS HEREBY ORDERED** that the R&R (ECF #24) is **ADOPTED** as the Opinion of this Court. **IT IS FURTHER ORDERED** that, for the reasons stated in the R&R, the Securas Motion (ECF ## 10, 11) and the Clayton Motion (ECF #16) are **GRANTED**. **IT IS FURTHER ORDERED** that, for the reasons stated in the R&R, Clayton's request for the appointment of counsel is **DENIED WITHOUT PREJUDICE**.

Dated: May 25, 2016

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 25, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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